

DEPARTMENT OF TELECOMMUNICATIONS AND
ENERGY

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Petition of Boston Gas Company, Colonial Gas Company,)

Essex Gas Company, pursuant to G.L.c. 164, §§ 76 and 94A,
) D.T.E. 99-76

for Approval by the Department of Telecommunications and)

Energy of a Gas Resource Portfolio Management Contract)

Introduction

AllEnergy Marketing Company, L.L.C. submits these written comments in response to the Department's solicitation of comments in D.T.E. 99-76, Petition of Boston Gas Company, Colonial Gas Company and Essex Gas Company, At the three LDCs, for approval of a Gas Resource Portfolio Management Contract. AllEnergy Marketing Company, L.L.C., is the leading Northeast regional energy marketer and is headquartered in Waltham, Massachusetts. AllEnergy has concerns regarding two aspects of the RFP process. First, the process itself did not comply with the Department's Order in D.T.E. 98-32-B, nor was it consistent with the spirit of the Massachusetts Gas Collaborative. Second, the RFP specifies a single winner-take-all for all three companies' portfolios for three years in the context of a nascent competitive market that the Department itself found to have insufficient competition at the wholesale level.

The RFP Process does not comply with the Department's Order in D.T.E. 98-32-B.

In its Order in D.T.E. 98-32-B, the Department acknowledged parties' concerns regarding potential market power abuses by wholesale marketers who have won auction bids.

The effect of wholesale marketers= presence in the development of a fully competitive retail market is still uncertain. In the absence of any proposed mechanism to alleviate the potential for abuse of market power, wholesale marketers, as auction winners, could discourage the full development of retail competition. Therefore, the Department agrees with the Marketer Group that safeguards may well be needed to prevent market power abuses. Each of the participants in this proceeding appeared to acknowledge that the issue of market power would need to be addressed in the context of the portfolio auction. Therefore, the Department suggests that the collaborative develop standards concerning wholesale and retail marketers= participation in the market area in connection with the Portfolio Auction and present such standards for review. DTE 98-32-B Order,

p. 56.

The three LDCs in the instant case failed to comply with the Department=s suggestion. Despite discussion in the first collaborative meeting after the Department=s February 1st Order that the portfolio auction would be an issue of collaborative discussion, presumably timed to occur prior to LDCs issuing an RFP, this RFP was issued prior to any discussion in the collaborative setting. In fact, only selected parties were briefed on the RFP, and no retail marketers were included in that briefing. Retail marketers learned of the RFP by chance, and only after it had been issued. Market power has not been discussed, therefore precluding any structural changes in the RFP to alleviate market power concerns prior to the RFP=s issuance.

The structure of the portfolio auction in the Massachusetts natural gas industry is analogous to the structure of the bid to provide default service in the Massachusetts electric industry. Yet in the electric industry, the Department has opened D.T.E. 99-60 Notice of Inquiry into the pricing and procurement of default service, and will be able to carefully consider with input from all parties, the structure of electric default service. Further, the Department will specifically be able to take into consideration market power concerns and the effect of default service on retail competition before an RFP has been issued to provide this service.

Although it appears from the Order in D.T.E. 98-32-B that the Department anticipated the same discussion would take place in the Massachusetts Gas Unbundling Collaborative for the portfolio auction, that discussion never took place. The Department should not let this contract go forward without that discussion, and resolution of these critical issues.

The Structure of the RFP concentrates over 50% of Massachusetts= capacity, both upstream and downstream, in the hands of a single wholesale marketer raising serious

market power concerns.

In its Order in D.T.E. 98-32-B, the Department found that the upstream capacity market is not workably competitive.

For the reasons provided below, we find that the upstream capacity market is not yet workably competitive. Currently, there are only two pipelines flowing into Massachusetts. This upstream capacity, which is leased almost exclusively by LDCs, is sufficient to meet the peak winter needs of the Massachusetts market only with the addition of peaking and storage services supplementing the pipeline capacity. We expect that current FERC initiatives along with the introduction of more capacity options, combined with the unbundling of the LDCs, will bring the upstream capacity market closer to full competition. For the Department to regard this capacity market as fully competitive, the FERC-imposed price controls on interstate pipeline capacity must be lifted. In addition, the number of alternative contract holders with firm rights to interstate pipeline capacity must increase.

As shown below, the three LDCs hold fifty-six percent of the upstream and downstream capacity held by Massachusetts LDCs.

Exhibit A-1

MA LDC Capacity

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	Capacity	Capacity	Capacity	Massachusetts Capacity
Bay State	279,394	160,371	439,765	18%
Berkshire	19,528	31,662	51,190	2%
Blackstone	-	518	518	0%
Boston	566,500	463,188	1,029,688	43%
Colonial	125,100	132,616	257,716	11%
Commonwealth	210,000	304,208	514,208	21%
Essex	23,392	28,590	51,982	2%
Fall River	-	29,006	29,006	1%
Fitchburg	14,400	14,041	28,441	1%
North Attleboro	-	5,067	5,067	0%
Total MA	1,238,314	1,169,267	2,407,581	100%

Combined 3 LDCs

Boston, Colonial & Essex

714,992

624,394

1,339,386

Percent of Total

58%

53%

56%